

§ 237.1

AUTHORITY: 49 U.S.C. 20102-20114; P.L. 110-432, division A, section 417; 28 U.S.C. 2461, note; and 49 CFR 1.49.

SOURCE: 75 FR 41302, July 15, 2010, unless otherwise noted.

Subpart A—General

§ 237.1 Application.

(a) Except as provided in paragraphs (b) or (c) of this section, this part applies to all owners of railroad track with a gage of two feet or more and which is supported by a bridge.

(b) This part does not apply to bridges on track used exclusively for rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

(c) This part does not apply to bridges located within an installation which is not part of the general railroad system of transportation and over which trains are not operated by a railroad.

§ 237.3 Responsibility for compliance.

(a) Except as provided in paragraph (b) of this section, an owner of track to which this part applies is responsible for compliance.

(b) If an owner of track to which this part applies assigns responsibility for the bridges that carry the track to another person (by lease or otherwise), written notification of the assignment shall be provided to the appropriate FRA Regional Office at least 30 days in advance of the assignment. The notification may be made by any party to that assignment, but shall be in writing and include the following—

(1) The name and address of the track owner;

(2) The name and address of the person to whom responsibility is assigned (assignee);

(3) A statement of the exact relationship between the track owner and the assignee;

(4) A precise identification of the track segment and the individual bridges in the assignment;

(5) A statement as to the competence and ability of the assignee to carry out the bridge safety duties of the track owner under this part; and

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(6) A statement signed by the assignee acknowledging the assignment to him of responsibility for purposes of compliance with this part.

(c) The Administrator may hold the track owner or the assignee, or both, responsible for compliance with this part and subject to penalties under § 237.7.

(d) A common carrier by railroad which is directed by the Surface Transportation Board to provide service over the track of another railroad under 49 U.S.C. 11123 is considered the owner of that track for the purposes of the application of this part during the period the directed service order remains in effect.

(e) When any person, including a contractor for a railroad or track owner, performs any function required by this part, that person is required to perform that function in accordance with this part.

(f) Where an owner of track to which this part applies has previously assigned responsibility for a segment of track to another person as prescribed in 49 CFR 213.5(c), additional notification to FRA is not required.

(g) FRA reserves the right to reject an assignment of responsibility under § 237.3(b) for cause shown.

§ 237.5 Definitions.

For the purposes of this part—

Bridge modification means a change to the configuration of a railroad bridge that affects the load capacity of the bridge.

Bridge repair means remediation of damage or deterioration which has affected the structural integrity of a railroad bridge.

Railroad bridge means any structure with a deck, regardless of length, which supports one or more railroad tracks, or any other undergrade structure with an individual span length of 10 feet or more located at such a depth that it is affected by live loads.

Track owner means a person responsible for compliance in accordance with § 237.3.

§ 237.7 Penalties.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is

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subject to a civil penalty of at least \$650 and not more than \$25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$105,000 per violation may be assessed. “Person” means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; any employee of such owner, manufacturer, lessor, lessee, or independent contractor; and anyone held by the Administrator of the Federal Railroad Administration to be responsible under § 237.3(d). Each day a violation continues shall constitute a separate offense. See Appendix B to this part for a statement of agency civil penalty policy.

(b) Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

[75 FR 41302, July 15, 2010, as amended at 77 FR 24422, Apr. 24, 2012]

§ 237.9 Waivers.

(a) Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, the Administrator may grant the waiver subject to any conditions the Administrator deems necessary. If a waiver is granted, the Administrator publishes a notice in the Federal Reg-

ister containing the reasons for granting the waiver.

Subpart B—Railroad Bridge Safety Assurance

§ 237.31 Adoption of bridge management programs.

Each track owner shall adopt a bridge safety management program to prevent the deterioration of railroad bridges by preserving their capability to safely carry the traffic to be operated over them, and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure, not later than the dates in the following schedule:

(a) March 14, 2011: Class I carriers;

(b) March 14, 2011: Owners of track segments which are part of the general railroad system of transportation and which carry more than ten scheduled passenger trains per week;

(c) September 13, 2011: Class II carriers to which paragraph (b) of this section does not apply; and

(d) September 13, 2012: All other track owners subject to this part and not described paragraphs (a) through (c) of this section.

§ 237.33 Content of bridge management programs.

Each bridge management program adopted in compliance with this part shall include, as a minimum, the following:

(a) An accurate inventory of railroad bridges, which shall include a unique identifier for each bridge, its location, configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the management of bridge safety;

(b) A record of the safe load capacity of each bridge;

(c) A provision to obtain and maintain the design documents of each bridge if available, and to document all repairs, modifications, and inspections of each bridge; and

(d) A bridge inspection program covering as a minimum:

(1) Inspection personnel safety considerations;